IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 225 OF 1996

The Commissioner of Income-tax,
Bombay City-I, Bombay. ...Applicant
V/s.
Indian Resort Hotels Limited. ...Respondent

Mr.Ashok Kotangle for Applicant-Revenue.
Mr.P.C. Tripathi i/b. M/s.Gagrat & Co. for Respondent-Assessee.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JULY 5, 2005.

P.C. :-

. This is the reference made by the Income Tax Appellate Tribunal arising out of the order of the Tribunal, for the assessment year 1977-78. The following question is referred for our opinion :-

> "Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in law in directing to treat Hotel Building as plant for the purpose of granting depreciation? "

2. Both the learned Counsel for the parties agree that the issue involved in the above question is squarely covered by the Judgment of the Apex Court in the case of **C.I.T. V/s. Anand Theatres, (2000) 244 ITR 192** wherein the Apex Court held that the hotel building not entitled to depreciation at rate applicable to plant.

3. In view of the law laid down by the Apex Court, the above question is answered in negative i.e. in favour of the revenue and against the assessee. Reference, accordingly, stands disposed of with no order as to costs.

(A.S. AGUIAR, J.) **(V.C. DAGA, J.)**